

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 46, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1 Page 1, line 6, delete "partners, or owners of sole proprietorships"
2 and insert "**or partners, or the owner of a member that is a sole**
3 **proprietorship**".

4 Page 2, after line 13, begin a new paragraph and insert:
5 "SECTION 2. IC 8-1-17-6 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. At the time the
7 commission approves the articles of incorporation of any cooperative
8 corporation, it shall issue to it, and place on file a duplicate of, a
9 certificate of public convenience and necessity accurately describing
10 the territory within which such cooperative corporation shall be
11 authorized to operate. Thereafter, such territory may be changed by a
12 new certificate issued and filed by the commission:

13 (1) to harmonize with the result of proceedings pursuant to
14 section 21(c) of this chapter, or any other statute empowering the
15 commission to determine the territory within which any telephone
16 company or cooperative may operate; or

17 (2) to harmonize with findings made by the commission upon
18 petition for change of territory signed by the ~~president~~ and

1 ~~secretary~~ **appropriate officers** of the cooperative corporation,
 2 accompanied by a certified copy of a resolution authorizing the
 3 same duly adopted by its board of directors and also by a map
 4 showing clearly both the old and the proposed new territory and
 5 filed with the commission.

6 Such findings as to a local cooperative corporation shall be made only
 7 after the commission ascertains whether such petition proposed a
 8 change in such territory as will affect territory being served by any
 9 other cooperative corporation or any telephone company.

10 SECTION 3. IC 8-1-17-7 IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Each cooperative corporation
 12 formed under this chapter shall have a board of directors, which board
 13 shall constitute the governing body of the cooperative corporation. The
 14 directors of a local cooperative corporation must be members, **or if the**
 15 **cooperative corporation's bylaws so provide, a member's officers,**
 16 **directors, or partners, or the owner of a member that is a sole**
 17 **proprietorship may be directors** of the same and, ~~except as~~
 18 **cooperative corporation. Directors other than those** named in ~~its the~~
 19 **cooperative corporation's** articles of incorporation, directors of any
 20 cooperative corporation shall be elected by its members.

21 (b) Unless the bylaws of the cooperative corporation provide
 22 otherwise, such directors shall be elected annually. The bylaws may
 23 provide that the directors may hold office for any stated period not
 24 exceeding three (3) years, and be so elected that the terms of only part
 25 of such directors shall expire at any one (1) time and that only enough
 26 directors to succeed those whose terms are about to expire need be
 27 elected in any year.

28 (c) The bylaws may provide that the area in which the members of
 29 the cooperative corporation reside shall be apportioned into districts
 30 and prescribe the procedure by which the members residing in any one
 31 (1) district may nominate a director.

32 (d) The bylaws may specify a fair remuneration for the time actually
 33 spent by its officers, directors, and members of its executive committee
 34 in the performance of their duties as such and provide that the same be
 35 paid them respectively. The officers, directors, and members of the
 36 executive committee shall be entitled to reimbursement for expenses
 37 incurred by them in the performance of their duties whether or not the
 38 bylaws provide that they be remunerated for their time spent in such

1 performance.

2 (e) The board shall annually **designate and** elect a ~~president; a vice~~
 3 ~~president; a secretary; and a treasurer. The president and vice president~~
 4 ~~shall be elected from the members of the board of directors. those~~
 5 **officers it considers necessary.**

6 SECTION 4. IC 8-1-17-9 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) A cooperative corporation
 8 may issue to its members certificates of membership and each member
 9 shall be entitled to only one (1) vote on each question or election at any
 10 regular or special meetings of the cooperative corporation.

11 (b) Meetings of members may be held at such place as may be
 12 provided in the bylaws. An annual meeting of the members shall be
 13 held at such time as may be provided by the bylaws. Special meetings
 14 may be called ~~by the president;~~ by the board of directors, by a petition
 15 signed by not less than five percent (5%) of all the members, or by such
 16 other officers or persons as may be provided in the articles of
 17 incorporation or by the bylaws.

18 (c) Written or printed notice stating the place, day, and hour of the
 19 meeting of members, and, in the case of a special meeting, the purpose
 20 or purposes for which the meeting is called, shall be delivered not less
 21 than ten (10) nor more than thirty (30) days before the date of the
 22 meeting, either personally or by mail, by or at the direction of the
 23 ~~president or the secretary; or the~~ officers or persons calling the meeting,
 24 to each member of record entitled to vote at such meeting. If mailed,
 25 such notice shall be deemed to be delivered when deposited in the
 26 United States mails in a sealed envelope addressed to the member at
 27 his address as it appears on the records of the cooperative corporation,
 28 with postage prepaid. Notice of meetings of members may be waived
 29 in writing.

30 (d) Unless otherwise provided in the articles of incorporation, two
 31 percent (2%) of all the members of the cooperative corporation present
 32 in person at any meeting of members, of which meeting notice shall
 33 have been given as provided in the foregoing subdivision (c) of this
 34 section, shall constitute a quorum for the transaction of business at
 35 such meeting.

36 (e) A majority vote of those members who are present in person at
 37 any regular meeting, or at any special meeting of the members called
 38 for that purpose, shall be necessary for the taking of any action,

1 adoption of any resolution, or the election of any officers, or otherwise,
2 as the case may be.

3 SECTION 5. IC 8-1-17-23 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. (a) A cooperative
5 corporation may amend its articles of incorporation to change its
6 corporate name, to increase or reduce the number of its directors, or
7 change any other provisions therein; provided, that any change of
8 location of the principal office may be effected in the manner set forth
9 in section 24 of this chapter, and further provided that no cooperative
10 corporation shall amend its articles of incorporation to embody therein
11 any purpose, power, or provision which would not be authorized if its
12 original articles of incorporation, including such additional or changed
13 purpose, power, or provision, were offered for filing at the time articles
14 under this section are offered. Such amendment may be accomplished
15 by filing articles of amendment which shall be entitled and endorsed
16 "Articles of Amendment of _____" (the blank space being
17 filled in with the name of the cooperative corporation) and state:

18 (1) The name of the cooperative corporation, and if it has been
19 changed, the name under which it was originally incorporated.

20 (2) The date of filing the articles of incorporation in each public
21 office where filed.

22 (3) Whether the statement of counties within which its operations
23 are to be conducted is to be changed, and if so the new statement
24 of such counties.

25 (4) The ~~president or vice president~~ **officer** executing such articles
26 of amendment shall make and annex thereto an affidavit stating
27 that the provisions of this section in respect to the amendment set
28 forth in such articles were complied with.

29 (b) Such articles shall be subscribed in the name of the cooperative
30 corporation by the ~~president or vice president; and by the secretary or~~
31 ~~the assistant secretary; appropriate officers of the corporation~~ who
32 shall make and annex an affidavit stating that they have been
33 authorized to execute and file such articles by a resolution duly adopted
34 at a meeting of the cooperative corporation duly called and held as
35 provided in section 9 of this chapter. If by any such amendment to
36 articles of incorporation, the territory proposed to be served by the
37 cooperative corporation is to be increased or decreased, the articles of
38 amendment, together with a petition executed by the ~~president, or vice~~

1 ~~president, and by the secretary or the assistant secretary~~ **appropriate**
 2 **officers** of the cooperative corporation and praying for the permission
 3 of the commission shall be submitted to the commission. Thereupon,
 4 the commission shall set said petition for public hearing and shall give
 5 notice of the time and place thereof one (1) time in at least one (1)
 6 newspaper published in each of the counties in which lies any of the
 7 territory proposed to be added or omitted by such amendment, which
 8 publication shall be at least ten (10) days before such hearing. The cost
 9 of publication shall be paid by the petitioner when filing such petition.
 10 Also written notice of the time and place of such hearing shall be
 11 mailed to each telephone company operating in contiguous territory in
 12 the manner provided in section 5 of this chapter. Any interested person
 13 may appear, personally or by attorney, at such hearing and aid or
 14 oppose the prayer of the petition. After such hearing, the commission
 15 shall grant or deny the petition and make its order accordingly. No
 16 amendment increasing or decreasing the territory to be served by such
 17 cooperative corporation shall be filed in the office of the secretary of
 18 state or of any county recorder unless there be attached thereto a
 19 certified copy of an order of the commission consenting to such
 20 increase or decrease. Such articles shall be filed in the same places as
 21 the original articles of incorporation and thereupon the amendment
 22 shall be deemed to have been effected.

23 SECTION 6. IC 8-1-17-24 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. A cooperative
 25 corporation formed hereunder may change the location of its principal
 26 office by filing in the office of the secretary of state a certificate
 27 reciting such change of principal office and setting forth the resolution
 28 by its board of directors authorizing such change and stating the time
 29 and place of its adoption, which certificate shall be executed and
 30 acknowledged by the **appropriate officers of the** cooperative
 31 ~~corporation's president or vice-president~~ **corporation** with the
 32 corporate seal attached and attested by the ~~secretary or assistant~~
 33 ~~secretary.~~ **appropriate officer of the cooperative corporation.**

34 SECTION 7. IC 8-1-17-25 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. Any cooperative
 36 corporation may dissolve by filing in the office of the secretary of state
 37 articles of dissolution which shall be entitled and endorsed "Articles of

Dissolution of _____" (the blank space being filled in with the name of the cooperative corporation) and shall state:

~~(a)~~ (1) The name of the cooperative corporation, and if such cooperative corporation is a corporation resulting from the consolidation as provided in this chapter, the names of the original cooperative corporations.

~~(b)~~ (2) The date of filing of the articles of incorporation in the office of secretary of state and, if such cooperative corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original cooperative corporations were filed in the office of secretary of state.

~~(c)~~ (3) That the cooperative corporation elects to dissolve.

~~(d)~~ (4) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

Such articles shall be subscribed and acknowledged by the ~~president or a vice president and the secretary or an assistant secretary;~~ **appropriate officers of the cooperative corporation** who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted by the members of the cooperative corporation at a meeting thereof duly called and held as provided in section 9 of this chapter. Articles of dissolution or a certified copy or copies thereof shall be filed in the same places as original articles of incorporation, and thereupon the cooperative corporation shall be deemed to be dissolved. Such cooperative corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities and obligations of the cooperative corporation have been satisfied and discharged shall be refunded pro rata to the patrons, their assignees, personal representatives, heirs, or legatees, who shall have paid for telephone service rendered by the cooperative corporation, within a five

- 1 (5) year period next preceding such dissolution. Any assets not so
- 2 refunded within a two (2) year period after such dissolution is
- 3 completed shall pass to and become the property of the state of
- 4 Indiana."

(Reference is to SB 46 as reprinted January 22, 1999.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Senator Mills, Chairperson